

F. COUNT VI RCRA
FAILURE TO NOTIFY OF HAZARDOUS WASTE ACTIVITY
AND
FAILURE TO HAVE AN U.S. EPA IDENTIFICATION NUMBER

112. Paragraphs 9-18, 20-23, 32, 33, 36-38 and 47-52, 54-66 are incorporated herein as if set forth in their entirety.

113. MAC § 299.9303 [40 C.F.R § 262.12] requires a generator who treats, stores or disposes of hazardous waste to have an U.S. EPA identification number prior to treating, storing, disposing or transporting or offering for transport of hazardous waste. Section 3010(a) of RCRA, 42 U.S.C. § 6910(a), requires any person who generates, transports, treats, stores or disposes of hazardous waste to notify U.S. EPA of its location and provide a general description of its activities and the hazardous wastes it handles.

114. MAC § 299.9107 [40 C.F.R. §260.10] defines "storage" as the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, stored or disposed of elsewhere.

115. MAC § 299.9108 [40 C.F.R. §260.10] defines "treatment" to include any method which is designed to change the physical, chemical or biological character or composition of any hazardous waste to, among other things, reduce its volume.

116. MAC § 299.9102 [40 C.F.R. §260.10] defines "disposal" to include the discharge, deposit, dumping, spilling, leaking or placing of any hazardous waste into or on the land in such a manner that the hazardous waste or a constituent of the hazardous waste might enter the environment.

117. MAC § 299.9104(a) [40 C.F.R. § 260.10] defines a "generator" to include any person whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation.

118. MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10] defines "person" to include corporations.

119. MAC §§ 299.9109(gg) and 299.9202(1) define "waste" to include any discarded material. "Discarded material" is further defined to include any material that is abandoned by being disposed of or recycled or accumulated or stored prior to recycling. [40 C.F.R. § 261.2 defines "solid waste" and "discarded material"]

120. MAC §§ 299.9104(d) and 299.9203 [40 C.F.R. 261.3] defines "hazardous waste" to include any waste which exhibits the characteristic of hazardous waste identified in MAC 299.9212.

121. MAC § 299.9212(4) [40 C.F.R. 261.24] states that a waste exhibits the toxicity characteristic when it contains any of the contaminants listed in Table 201a at a concentration equal to or greater than the respective values in Table 201a.

122. Table 201a to MAC § 299 lists the following chemicals and their regulatory concentration limit:

chemical name (waste code)	regulatory limit
arsenic (D004)	5.0 mg/l
barium (D005)	100 mg/l
benzene (D018)	0.5 mg/l
cadmium (D006)	1.0 mg/l

chlorobenzene (D021)	100 mg/l
chromium (D007)	5.0 mg/l
1,4-dichlorobenzene (D027)	7.5 mg/l
1,2-dichloroethane (D028)	0.5 mg/l
lead (D008)	5.0 mg/l
tetrachloroethylene (D039)	0.7 mg/l
trichloroethylene	0.5 mg/l

123. MAC § 299.9212(1)(a) [40 C.F.R. § 261.21] states that a waste with a flash point less than 140 degrees Fahrenheit is considered to exhibit the characteristic of ignitability and is a hazardous waste.

124. Strong is a corporation and thus a "person" as defined by MAC § 299.9106(i) [Section 1004(15), cf RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].

125. Strong placed on the ground automobile gasoline and batteries at various locations at the Strong facility including, but not limited to, the crushed auto area, near the shredder building and near the battery storage area as alleged in paragraphs 47-51. The gasoline and batteries were "wastes" as that term is defined in MAC §§ 299.9109(gg) and 299.9202(1) [40 C.F.R. § 261.2].

126. The gasoline and batteries identified in paragraph 125 contaminated the soil with various chemicals including, but not limited to, benzene, chlorobenzene, 1,4 dichlorobenzene, 1,2 dichloroethane, tetrachloroethylene, trichloroethylene, lead, arsenic, cadmium and chromium as alleged in paragraphs 54, 56-65.

127. The concentrations of the chemicals found in the soils at the Strong facility and identified in paragraph 126 were at concentrations presented in paragraphs 54, 56-65 that were greater than the regulatory limits established for these chemicals in Table 201a to MAC § 299. Consequently, the soils were contaminated with wastes which exhibited the toxicity characteristic and are thus hazardous wastes as defined by MAC § 299.9212(4) [40 C.F.R. 261.24].

128. Some of the wastes identified in paragraph 125 had a flash point of 81 degrees Fahrenheit as alleged in paragraph 58. Consequently, the soils were contaminated with wastes which exhibited the ignitibility characteristic and are thus hazardous wastes as defined by MAC § 299.9212(1)(a) [40 C.F.R. 261.21].

129. Strong's actions of removing gasoline and batteries from automobiles and draining the various liquids and constituents on the ground as alleged in paragraphs 47-51 first caused the gasoline and battery contents to be regulated by RCRA. Consequently, Strong was a generator of hazardous waste as defined by MAC § 299.9104(a) [40 C.F.R. 260.10].

130. Strong's actions identified in paragraph 122-128 constituted disposal of hazardous waste as defined by MAC § 299.9102 [40 C.F.R. § 260.10].

131. On and prior to at least July 22, 1999, Strong had not notified U.S. EPA as required by section 3010(a) of RCRA, 42 U.S.C. §6910(a), or have an U.S. EPA identification number as required by MAC § 299.9301 [40 C.F.R. § 262.12]. This constitutes one violation of MAC § 299.9301 [40 C.F.R. § 262.12] and section 3010(a) of RCRA, 42 U.S.C. §6910(a).

G. COUNT VII RCRA***DISPOSAL OF HAZARDOUS WASTE WITHOUT A PERMIT***

132. Paragraphs 9-18, 20-23, 32, 33, 36-38, 47-52, 54-66 and 116-118, are incorporated herein as if set forth in their entirety.

133. MAC § 299.9502(1) requires an operating license for the treatment, storage or disposal of hazardous waste. Section 3005 of RCRA, 42 U.S.C. § 6905 and 40 C.F.R. 270.10(f) requires a permit for such facilities.

134. Strong's actions identified in paragraph 125-128 constituted disposal of hazardous waste as defined by MAC § 299.9102 [40 C.F.R. § 260.10].

135. On and prior to at least July 22, 1999, Strong did not have an operating license for the disposal of hazardous waste at its facility. Consequently, Strong violated MAC § 299.9502(1) [40 C.F.R. 270.10(f) and 42 U.S.C. §6905]. This constituted one violation of MAC § 299.9502(1) [40 C.F.R. § 270.10(f) and 42 U.S.C. §6905].

H. COUNT VIII RCRA***LAND DISPOSAL WITHOUT TREATMENT***

136. Paragraphs 9-18, 20-23, 26, 33, 36-38, 47-52, 54-66, and 117-124 are incorporated herein as if set forth in their entirety.

137. MAC § 299.9311 requires generators of hazardous waste to comply with the applicable requirements of 40 C.F.R. Part 268.

138. 40 C.F.R. 268.9(c) requires characteristic hazardous waste to be treated in accordance with the treatment standards of subpart D of 40 C.F.R. Part 268 [40 C.F.R. 268.40-268.49] prior to being land disposed.

139. 40 C.F.R. 268.2(c) defines "land disposal" to mean placement in or on the land.

140. 40 C.F.R. 268.40(a) establishes treatment standards as either a concentration of the hazardous constituents or in accordance with a specified technology. The appropriate treatment standards are determined by the waste code designation for the waste and by reference to the table "Treatment Standards for Hazardous Wastes" contained in 40 C.F.R. 268.40.

141. "Treatment Standards for Hazardous Waste" specifies the concentrations or treatment standards for the following hazardous wastes:

Waste Code	Waste Description and Treatment/Regulatory Subcategory	Non-wastewaters
D001	Ignitable characteristic wastes	DEACT and meet 268.48 standards or RORGs or CMBST
D004	Characteristic for toxicity for arsenic	5.0 mg/L TCLP and meet 268.48 standards
D006	Characteristic for toxicity for cadmium	0.11 mg/L TCLP and meet 268.48 standards
D006	Cadmium containing batteries subcategory	RTHRM
D007	Characteristic for toxicity for chromium	0.60 mg/L TCLP and meet 268.48 standards
D008	Characteristic for toxicity for lead	0.75 mg/L TCLP and meet 268.48
D008	Lead Acid Batteries	RLEAD

D018	Characteristic for toxicity for benzene	10 mg/kg and meet 268.48
D021	Characteristic for chlorobenzene	6.0 mg/kg and meet 268.48
D027	Characteristic for p-dichlorobenzene	6.0 mg/kg and meet 268.48
D028	Characteristic for 1,2-dichloroethane	6.0 mg/kg and meet 268.48
D039	Characteristic for tetrachloroethylene	6.0 mg/kg and meet 268.48
D040	Characteristic for trichloroethylene	6.0 mg/kg and meet 268.48

142. 40 C.F.R. 268.42 identifies the treatment standards represented by the following codes:

DEACT	Deactivation to remove the hazardous characteristics of a waste due to its ignitibility.
RORGS	Recovery of organics utilizing one or more of the following technologies: 1) distillation, 2) thin film evaporation, 3) steam stripping, 4) carbon adsorption, 5) critical fluid extraction, 6) liquid-liquid extraction, 7) precipitation/crystalization or 8) chemical phase separation techniques.
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirement of 40 CFR part 264, subpart O, or 40 CFR part 265, subpart O, or 40 CFR part 265, subpart H, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.

RTHRM	Thermal recovery of metals or inorganics from nonwastewaters in units identified as industrial furnaces according to 40 CFR 260.10(1), (6), (7), (11) and (12) under the definition of "industrial furnaces".
RLEAD	Thermal recovery of lead in secondary lead smelters.

143. Strong placed on the ground automobile gasoline and batteries at various locations at the Strong facility including, but not limited to, the crushed auto area, the gas tank area, the shredder staging area and the battery storage area as alleged in paragraphs 47-51. The gasoline and batteries were "wastes" as that term is defined in MAC §§ 299.9109(gg) and 299.9202(1) [40 C.F.R. § 261.2].

144. The gasoline and batteries identified in paragraph 143 contaminated the soil with various chemicals including, but not limited to, benzene, chlorobenzene, 1,4-dichlorobenzene, 1,2-dichloroethane, tetrachloroethylene, trichloroethylene, lead, arsenic, cadmium and chromium as alleged in paragraphs 54, 56-65.

145. The concentration of the chemicals identified in paragraph 125 were at concentrations presented in paragraphs 54, and 56-65 and were greater than the regulatory limit established for these chemicals in Table 201a to MAC § 299. Consequently, the soils were contaminated with wastes which exhibited the toxicity characteristic and are thus hazardous wastes as defined by MAC § 299.9212(4) [40 C.F.R. 261.3]. The wastes were thus appropriately designated by the following waste codes: arsenic (D004), cadmium (D006), chromium (D007), lead (D008), benzene (D018), chlorobenzene (D021), 1,4-dichlorobenzene (D027),

1,2-dichloroethane (D028), tetrachloroethylene (D039) and trichloroethylene (D040).

146. Some of the wastes identified in paragraph 143 had a flash point of 81 degrees Fahrenheit as alleged in paragraph 58. Consequently, the soils were contaminated with wastes which exhibited the ignitability characteristic and are thus hazardous wastes as defined by MAC § 299.9212(1)(a) [40 C.F.R. 261.21]. These wastes were thus appropriately designated by the D001 waste code.

147. Strong's actions identified in paragraphs 125-128 constituted "land disposal" of hazardous waste as defined by 40 C.F.R. 268.2(c).

148. On and prior to at least July 22, 1999, Strong land disposed at the Strong facility the hazardous wastes identified in paragraphs 142-146 without meeting the applicable concentration based limits nor the technology based requirements specified in paragraphs 141 and 142. This constitutes one violation of 40 C.F.R. 268.9(c).

I. COUNT IX - RCRA

FAILURE TO RETAIN WASTE ANALYSIS RECORDS

149. Paragraphs 9-18, 20-23, 26, 32, 33, 36-38, 48-52, 54-66, 113, 114 and 117-120 are incorporated herein as if set forth in their entirety.

150. MAC § 299.9311 requires generators of hazardous waste to comply with the applicable requirements of 40 C.F.R. Part 268.

151. 40 C.F.R. 268.7(a)(1) requires a generator of hazardous waste to determine if its waste has to be treated prior to being land disposed.

152. 40 C.F.R. 268.7(a) (6) requires a generator of hazardous to retain supporting documentation for its determination of whether its wastes are restricted from land disposal pursuant to 40 C.F.R. Part 268.

153. MAC § 299.9302 [40 C.F.R. 262.11] requires a person who generates a waste to determine if that waste is a hazardous waste.

154. MAC § 299.9307 [40 C.F.R. 262.40(c)] requires a generator to retain for three years on-site records of its determination made pursuant to MAC § 299.9302 [40 C.F.R. 262.11].

155. Strong is a corporation and thus a "person" as defined by MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].

156. Strong is a generator of hazardous waste as alleged in paragraphs 129.

157. On and prior to at least July 22, 1999, Strong failed to have records of its determination of the hazardous characteristics of the wastes identified in paragraph 156. Strong also failed at that time to have records of its determination that its hazardous wastes were restricted from land disposal pursuant to 40 C.F.R. 268.7(a) (6). Consequently, this constitutes one violation of MAC § 299.9307(1) and §299.9311 [40 C.F.R. 268.7(a) (6)].

IV. PROPOSED CIVIL PENALTY

As presented in detail below the Complainant proposes a civil penalty of \$513,150 for the violations alleged in Counts I - IX

A. COUNTS I & II - CAA

158. Pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), the Federal Civil Penalties Inflation Adjustment Act, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. §3701, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation of Section 608 of the Act and for violation of regulations promulgated pursuant to Section 608 occurring or continuing on or after January 31, 1997.

159. Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), authorizes the assessment of a civil penalty based upon the seriousness and duration of the violation alleged, and after consideration of the size of the business, the economic impact of the penalty on business, the Respondent's full compliance history and good faith efforts to comply, payment by Respondent of penalties previously assessed for the same alleged violation, the economic benefit of noncompliance, and other factors as justice may require.

160. After considering these factors, U.S. EPA proposes that the Respondent be assessed a civil penalty of \$357,500 for Counts I & II of this complaint - \$327,000 for Count I and \$30,500 for Count II. This proposed penalty has been calculated in accordance with the Penalty Policy for Violations of 40 CFR Part 82, Subpart F: Maintenance, Service, Repair, and Disposal of Appliances Containing Refrigerant ("CAA Penalty Policy"), dated June 1, 1994. A copy of the CAA Penalty Policy accompanies this Complaint.

161. Under the CAA Penalty Policy, a penalty is derived from the sum of the economic benefit of the violation and the gravity of the violation.

162. Under the CAA Penalty Policy, U.S. EPA considers the economic benefit a violator derives from the alleged violations in determining the appropriate penalty. A violator cannot be allowed to derive monetary profit from noncompliance with the CAA, both for deterrence purposes and because other regulated entities have incurred expenses in complying with the CAA. In this case, based on information presently available, U.S. EPA has determined that the economic benefit to Strong was negligible. Hence, the proposed penalty does not include an economic benefit component.

163. The Complainant calculated the seriousness or gravity of the violations by considering the potential environmental harm, the extent of deviation from the regulatory scheme, the duration of the violations and the size of the violator.

164. The Complainant for Count I considered the potential for environmental harm to be major since the violations allege improper disposal of refrigerants. Proper disposal of refrigerants is a major component of the statutory and regulatory program promulgated under Part 82 for the control of ozone depleting substances. Respondent's failure to properly recover or obtain verification statements prior to disposal is a major deviation from the regulations contained in Part 82. In deriving the proposed penalty the Complainant considered that the Respondent accepted small appliances without having a verification statement or an incomplete verification statement as

alleged in paragraphs 40-45. Complainant treated these as 51 separate violations.

165. The Complainant for Count II considered the potential for environmental harm to be minor since the violations allege improper record keeping and the Respondent had some records. Record keeping is an important component of the regulations contained in Part 82. Respondent did not maintain sufficient records of the verification statements or contracts required by Part 82. Without such records it is not possible to accurately discern the Respondent's compliance with the Part 82 requirements. Respondent in its CAA information request response provided a list of clients that it may have received small appliances or motor vehicles from but for which it did not have verification statements or contracts. Respondent's failure to properly keep records of verification statements or contracts is a minor deviation from the regulations contained in Part 82. In deriving the proposed penalty the Complainant considered that there were at least 146 instances where verifications statements were not kept. Such records would have been required. The Respondent did not retain records of these transactions nor did it retain records of the required verification statements. Complainant treated these as 146 separate violations.

166. Complainant is unaware of any facts which would cause it to adjust the proposed penalty for Counts I and II based on Respondent's compliance history, previous penalties assessed for the same alleged violations or good faith efforts to comply.

167. Based upon the facts alleged in Counts I & II of this Complaint and upon the seriousness of the violations alleged, U.S. EPA hereby proposes to issue

a Final Order to the Respondent assessing a penalty in the amount of \$357,500 for Counts I & II. This proposed penalty may be adjusted if the Respondent establishes a bona fide issue of ability to pay or other affirmative defenses relevant to the determination of any final penalty. The proposed civil penalty has been determined in accordance with the Clean Air Act based upon the best information available to U.S. EPA at this time, and in consideration of the nature, circumstances, extent and gravity of the alleged violations. With respect to the Respondent, other factors may mitigate calculation of a final penalty.

168. Respondent shall pay the assessed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and shall deliver it, with a transmittal letter identifying the name of the case and docket number of this Complaint to:

U.S. Environmental Protection Agency, Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall also include on the check the name of the case and the docket number. Respondent simultaneously shall send copies of the check and transmittal letter to:

Joseph Cardile (AE-17J)
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Richard Clarizio
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. EPA, Region 5
77 West Jackson Boulevard

Chicago, Illinois 60604-3590

B. COUNTS III-IX RCRA

169. Complainant proposes to assess Respondent a civil penalty of \$155,650 for the violations alleged in Counts III-IX of this Complaint in the following manner:

- a. Count III - \$24,750
- b. Count IV - \$24,750
- c. Count V - \$24,750
- d. Count VI - \$24,750
- e. Count VII - \$7,150
- f. Count VIII - \$24,750
- g. Count IX - \$24,750

170. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation of Subtitle C of RCRA occurring or continuing on or after January 31, 1997.

171. Complainant determined the proposed civil penalty according to RCRA Section 3008, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider "the seriousness of the violation and any good faith efforts to comply with applicable requirements." Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts and circumstances of

this case with specific reference to U.S. EPA's 1990 RCRA Civil Penalty Policy and any amendment thereto. A copy of that penalty policy is available upon request. It provides a consistent method of applying the statutory penalty factors to this case.

172. The Complainant proposes that the Administrator assess a civil penalty of \$155,650 for the violations alleged in Counts III-IX of this Complaint, as further explained in Attachment 1, "Penalty Summary Sheet."

173. Respondent may pay the penalty identified in paragraph 172 by certified or cashier's check, payable to "Treasurer, the United States of America," and remit to:

U.S. Environmental Protection Agency, Region 5
P.O. Box 70753
Chicago, Illinois 60673

A copy of the check shall be sent to:

Richard Clarizio
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

and

George Opek
Waste, Pesticides & Toxics Division (DE-9J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

A transmittal letter identifying this Complaint shall accompany the remittance and the copy of the check.

V. COMPLIANCE ORDER RCRA COUNTS III-IX

174. Based on the foregoing, Respondent is hereby ordered pursuant to authority in 3008(a) of RCRA, 42 U.S.C. § 6928(a), and § 22.37(b) of the Consolidated Rules to comply with the following requirements immediately upon the effective date of this Order:

A. Respondent shall achieve and maintain compliance with all applicable requirements and prohibitions governing the generation, treatment, storage or disposal of used oil and hazardous waste as codified at or incorporated by MAC § 299 [40 C.F.R. Parts 260-268 and 279] at the Strong facility.

B. Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order within 15 calendar days after the date it achieves compliance. If Respondent has not taken or completed any requirement of this Order, Respondent shall notify U.S. EPA of the failure; its reasons for the failure; and the proposed date for compliance within 10 calendar days after the due date set forth in this Order.

C. Respondent shall submit all reports, submissions, and notifications required to comply with this section V to the United States Environmental Protection Agency, Region 5, Waste, Pesticides & Toxics Division, Enforcement and Compliance Assurance Branch, Attention: George Opek (DE-9J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. (312) 886-1423.

VI. OPPORTUNITY TO REQUEST A HEARING

175. Sections 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2) and 3008(b) of RCRA, 42 U.S.C. § 6928(b) and the Consolidated Rules provide to any person against whom the Administrator proposes to assess a penalty an opportunity to request a hearing on the proposed penalty. Accordingly, you have the right to request a hearing to contest any material fact alleged in the Complaint, to contest the appropriateness of the amount of the proposed penalty, or to

request a judgment in your favor as a matter of law. To request a hearing, you must specifically make such request in your Answer, as discussed below.

176. The hearing you request regarding this Complaint will be held and conducted in accordance with the provisions of the "Consolidated Rules," a copy of which accompanies this Complaint.

VII. ANSWER & FILING OF DOCUMENTS

177. To avoid being found in default, you must file a written Answer to this Complaint with the Regional Hearing Clerk (E-19J) within 30 calendar days of your receipt of this Complaint. Her address is:

. Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5,
77 West Jackson Boulevard,
Chicago, Illinois 60604,

In computing any period of time allowed under this Complaint, the day of the event from which the designated period runs shall not be included. Saturdays, Sundays, and Federal holidays shall be included, except when a time period expires on such, in which case the time period shall be extended to the next business day. You must file with the Regional Hearing Clerk the original and one copy of each document you intend as part of the record in this proceeding.

178. Your Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint, or must state clearly that you have no knowledge regarding a particular factual allegation which you cannot admit, deny, or explain, in which case the allegation will be deemed denied. Your Answer also shall specifically state:

- a. The circumstances or arguments which you allege constitute grounds for defense;
- b. The facts that you dispute or intend to place at issue;
- c. The basis for you opposing the proposed penalty; and
- d. Whether you request a hearing as discussed above.

179. Failure to deny any factual allegation in this Complaint shall constitute admission of the alleged fact.

180. You must send a copy of your Answer and of any documents subsequently filed in this action to Richard Clarizio at:

Richard Clarizio, (C-14J),
U.S. EPA, Region V,
Office of Regional Counsel
77 West Jackson Boulevard
Chicago, Illinois 60604.

You may telephone Mr. Clarizio at (312) 886-0559.

181. If you fail to file a written Answer within 30 calendar days of your receipt of this Complaint, the Administrator of U.S. EPA may issue a Default Order. Issuance of a Default Order will constitute a binding admission of all allegations made in the Complaint and a waiver of your right to a hearing (40 CFR § 22.17). The civil penalty proposed herein shall become due and payable without further proceedings 30 days after the Default Order becomes the Final Order of the Administrator pursuant to 40 CFR § 22.27.

182. Failure to comply with an administrative penalty order subjects the Respondent to the provisions relating to the imposition of interest, penalty and enforcement expenses set forth at Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), for Counts I & II. Interest will accrue at a rate established pursuant to 26 U.S.C. § 6621(a)(2). The U.S. EPA will also impose

a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be a percentage (10 percent for non-payment of Counts I & II) of the aggregate amount of your outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter. You will be required to pay, in addition to all other penalties and interest, the United States' enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings. In such a collection proceeding, the validity, amount, and appropriateness of the administrative penalty assessed shall not be subject to review.

VIII. SETTLEMENT CONFERENCE

183. Whether or not you request a hearing, you may request an informal conference to discuss the facts of this action and to arrive at a settlement. To request a settlement conference, write to Richard Clarizio, Office of Regional Counsel (C-14J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, or telephone Mr. Clarizio at (312) 886-0559.

184. Your request for an informal settlement conference does not extend the 30 calendar day period during which you must submit a written Answer to this Complaint. You may pursue simultaneously the informal settlement conference and adjudicatory hearing processes. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. However, U.S. EPA will not reduce the penalty simply because such a conference is held. Any settlement that may be reached as a result of

such a conference shall be embodied in a Consent Agreement and Final Order. Your agreement to a Consent Agreement and Final Order Assessing Administrative Penalties shall constitute a waiver of your right to request a hearing on any matter stipulated to therein.

185. Neither assessment nor payment of an administrative civil penalty shall affect your continuing obligation to comply with the RCRA or CAA, or any other Federal, State, or local law or regulation.

IN THE MATTER OF:

Strong Steel Products, LLC
 6464 Strong Street
 Detroit, Michigan 48209

) Proceeding to pursuant to
)
) Section 113(d)
) of the Clean Air Act
) 42 U.S.C. § 7413 and Section
) 3008(a) of the Solid Waste Disposal
) Act 42 U.S.C. § 6928(a)

9-27-01

Date



Bharat Mathur, Director
 Air and Radiation Division
 U.S. Environmental Protection Agency,
 Region 5
 77 West Jackson Boulevard
 Chicago, Illinois 60604

RCRA-05- 2001-0016
 MM-05- 2001-0006
 EYA-05- 2001-0020

IN THE MATTER OF:

Strong Steel Products, LLC
 6464 Strong Street
 Detroit, Michigan 48209

)
) Proceeding pursuant to
) Section 113(d)
) of the Clean Air Act
) 42 U.S.C. § 7413 and Section
) 3008(a) of the Solid Waste Disposal
) Act 42 U.S.C. § 6928(a)

September 27, 2001
 Date

Joseph M. Boyle
 Joseph M. Boyle, Chief
 Enforcement and Compliance Assurance
 Branch
 Waste, Pesticides and Toxics Division
 U.S. Environmental Protection Agency
 Region 5
 77 West Jackson Boulevard
 Chicago, Illinois 60604

RCRA-05- 2001-0015

MM-05- 2001-0006

CWA-05- 2001-0020

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Strong Steel Products, LLC
6464 Strong Street
Detroit, Michigan 48209

Respondent

) Docket No.

)

) Proceeding to Assess

) Administrative Penalties

) under Section 113(d)

) of the Clean Air Act

) 42 U.S.C. § 7413 and Assess

) Administrative Penalties and

) Compliance Order pursuant to

) 3008(a) of the Solid Waste

) Disposal Act 42 U.S.C. §

) 6928(a).

RCRA-05- 2001-0016

CA-05- 2001-0020

MM-05- 2001-00

CERTIFICATE OF SERVICE

I certify that on the date noted below, I filed the original and a copy of the Administrative Complaint with the Regional Hearing Clerk. I further certify that I provided to the U.S. EPA, Region 5 mail room a true and accurate copy of the Administrative Complaint and a copy of the attachments, including the "Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22, so that these documents could be placed in U.S. first class, postage prepaid, certified mail, return receipt requested to the following person at the address listed below:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey N. Cole, President
Strong Steel Products, L.L.C.
6464 Strong Street
Detroit, Michigan 48211

Tim McGarry, Enforcement Section Supervisor
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Wendy Barrott, Director
Air Quality Management Division

Wayne County Department of Environment
640 Temple Street
Detroit, Michigan 48201

Gregory A. Moore, Program Coordinator
City of Detroit
Department of Environmental Affairs
Administration
660 Woodward Ave, Suite 1590
Detroit, Michigan 48226

9/28/01
Date

Shanee Rucker
Shanee Rucker, Secretary
AECAS (MI/WI)

7099 3400 0000 9595 6893
Certified Mail No.